

APR 20 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RICARDO AGUILAR-VARILLAS; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74777

Agency Nos. A75-306-762
A75-306-763
A75-306-766

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 5, 2006**

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Ricardo Aguilar-Varillas, his wife, Escolastica Aguilar De Aguilar, and his daughter, Zuleika Aguilar-Aguilar, natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' summary affirmance of an

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Immigration Judge's ("IJ") denial of their applications for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence and may reverse only if the evidence compels a contrary conclusion. *Rostomian v. INS*, 210 F.3d 1088, 1089 (9th Cir. 2000). We deny the petition.

Substantial evidence supports the IJ's finding that petitioners failed to establish past persecution or a well-founded fear of future persecution on account of an enumerated ground. Because Aguilar-Varillas suffered harassment in his home town in Mexico based on his marriage to his cousin, he fails to establish nexus. *See INS v. Elias-Zacarias*, 502 U.S. 478, 482-83 (1992). The mistreatment also never rose to the level of persecution. *See Nagoulko v. INS*, 333 F.3d 1012, 1016-18 (9th Cir. 2003). Accordingly, the asylum claim fails.

Because petitioners failed to demonstrate that they are eligible for asylum, they also fail to satisfy the more stringent standard for withholding of removal. *See Alvarez-Santos v. INS*, 332 F.3d 1245, 1255 (9th Cir. 2003).

Petitioners failed to raise the CAT claim in their opening brief and therefore waived this claim. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

PETITION FOR REVIEW DENIED.